IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

CRL.A.No. 212 of 2001()

CC.294/1998 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE

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APPELLANT: COMPLAINANT

T.K.HUSSAIN
S/O.MOHAMMED
KATTUPEEDIAKKAL HOUSE
NALLALAM P.O., KOZHIKODE.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS: STATE &ACCUSED

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1. STATE OF KERALA
   REPRESENTED BY THE PUBLIC PROSECUTOR
   HIGH COURT OF KERALA
   ERNAKULAM.

2. B.BENNET KADATCHAM
   S/O.ROSILY PUVAS
   PALAPPALLAM P.O.
   KANYAKUMARI DISTRICT, TAMIL NADU.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.212 of 2001

Dated this the 17th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 2.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl